

**Congress of the United States**  
**Washington, DC 20515**

October 23, 2020

The Honorable Alex M. Azar II  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Secretary Azar:

The CARES Act and subsequent COVID legislation passed by Congress increased funding for the Public Health and Social Services Emergency Fund in order to reimburse eligible health care providers for health care-related expenses and lost revenues attributable to COVID-19.

In a Provider Relief Fund (PRF) FAQ issued on June 19, 2020, the Department of Health and Human Services (HHS) stated that hospitals could “use any reasonable method of estimating the revenue during March and April 2020 compared to the same period had COVID-19 not appeared. For example, if [hospitals had prepared a budget] without taking into account the impact of COVID-19, the estimated lost revenue could be the difference between ... budgeted revenue and actual revenue. It also would be reasonable to compare the revenues to the same period last year.”

However, HHS issued a Notice on September 19, 2020, that contained a new definition of lost revenue, stating that it was “represented as a negative change in year-over-year net patient care operating income.” HHS specified that, after covering the cost of COVID-19-related expenses, hospitals generally will only be able to apply PRF payments toward lost revenue up to the amount of their 2019 net patient operating income.

We have heard from Arizona health care systems that the sudden definition change is extremely problematic for accounting, auditing, and bond rating purposes. Moreover, under the September 19 Notice, many of Arizona’s hospitals – including those in rural communities and serving vulnerable populations such as children, families, and Medicaid beneficiaries – would be required to pay back portions of the PRF funding they received and have relied on for months to keep their doors open to the communities they serve.

In mid-March, Arizona hospitals were required by Governor Doug Ducey’s Executive Order 2020-10 to halt elective surgeries. While this was a necessary public health policy to enable hospitals to prepare for a potential surge of COVID-19 patients, hospitals experienced a 30-40% decline in revenues on average as a result. On a statewide basis, that equated to a revenue reduction of \$430 million to \$575 million per month. Arizona’s hospitals have also made significant investments in equipment and staffing to prepare for a possible surge of COVID-19 patients that are not reflected in these estimates.

The \$175 billion PRF authorized by Congress in the CARES Act and subsequent legislation was and is an absolutely crucial source of financial support that has helped hospitals to keep their doors open during the pandemic. Congressional intent was that the PRF funding was not meant as a loan to be repaid. But, unfortunately, HHS's September 19, 2020, Notice would effectively require much of this funding relief to be repaid and add to the mounting uncertainty of hospitals and safety net systems in Arizona to remain financially solvent. As we enter flu season, Arizona health care systems cannot afford further uncertainty and further cost burdens, without it impacting their ability to provide for Arizonans in need of care.

Therefore, we urge you to reinstate the PRF requirements outlined in the FAQ that HHS issued on June 19, 2020 to prevent further hardship and potential closures while Arizona is still fighting the pandemic. We look forward to your prompt response and action.

Sincerely,



Kyrsten Sinema  
United States Senator



Martha McSally  
United States Senator



Tom O'Halleran  
Member of Congress



Ann Kirkpatrick  
Member of Congress



Raúl Grijalva  
Member of Congress



Ruben Gallego  
Member of Congress



Greg Stanton  
Member of Congress